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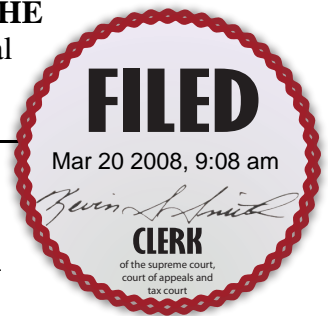
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**IN THE  
COURT OF APPEALS OF INDIANA**

RONNIE Q. HENDERSON,  
Appellant-Defendant,

VS.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 20A04-0707-CR-372

APPEAL FROM THE ELKHART SUPERIOR COURT  
The Honorable George Biddlecome, Judge  
Cause No. 20D03-0604-FA-14

**March 20, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Chief Judge**

Appellant-defendant Ronnie Q. Henderson appeals his convictions for Dealing in Cocaine Weighing Three Grams or More,<sup>1</sup> a class A felony, and Possession of Marijuana Weighing Thirty Grams or More,<sup>2</sup> a class D felony. Henderson argues that the trial court erroneously admitted drug evidence that was seized following what Henderson contends was an unlawful search of his vehicle. Finding no error, we affirm the judgment of the trial court.

### FACTS

On April 22, 2006, Elkhart County Sheriff's Deputy Michael Wass was stopped at a traffic light and noticed Henderson, who was driving a nearby vehicle. After the deputy observed that Henderson's vehicle had a broken taillight and a cracked windshield that obstructed the view of the driver, he initiated a traffic stop. Henderson pulled into the driveway of a residence and jumped out of the vehicle. The deputy ordered Henderson to get back inside his vehicle and asked for his driver's license and registration. Henderson held the registration in his left hand and appeared to be searching for something with his right hand in between the front seats. Deputy Wass observed Henderson move his hand as if to throw something. The deputy became concerned for his safety but elected not to pursue the matter until backup arrived because he did not want to further upset Henderson.

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<sup>1</sup> Ind. Code § 35-48-4-1.

<sup>2</sup> I.C. § 35-48-4-11.

Henderson eventually produced his State-issued identification card and admitted to Deputy Wass that his driver's license was suspended, which the deputy confirmed to be true. As Henderson handed the deputy his identification card, he was nervous and his hands were shaking. The deputy arrested Henderson for driving with a suspended license and searched Henderson, finding "two very large rolls of money." Tr. p. 263. Henderson was then placed in the deputy's vehicle so that the deputy could begin the process of impounding Henderson's vehicle.

Pursuant to department policy, Deputy Wass inventoried the van before it was impounded. The deputy discovered a sweatshirt and sweatpants on the front passenger seat, and when he moved the clothing he noticed a strong odor of marijuana. He then saw a brown bag and opened it, finding fifty-five grams of marijuana. He also found cocaine weighing 21.83 grams in multiple smaller bags.

On April 26, 2006, the State charged Henderson with class A felony dealing in cocaine and class D felony possession of thirty or more grams of marijuana. On August 8, 2006, Henderson filed a motion to suppress the drug evidence based on the allegedly unlawful search of his vehicle. Following a hearing, the trial court denied Henderson's motion. A jury trial commenced on April 2, 2007, at which the trial court overruled Henderson's renewed objection to the admission of the drug evidence. On April 4, 2007, the jury found Henderson guilty as charged. On May 24, 2007, the trial court sentenced Henderson to fifty years for dealing in cocaine and three years for possession of marijuana, to be served concurrently. Henderson now appeals.

## DISCUSSION AND DECISION

Henderson argues that the trial court erroneously admitted the drug evidence seized by Deputy Wass from Henderson's van. Specifically, Henderson argues that the deputy's search of the van violated the United States and Indiana Constitutions. A trial court has broad discretion in ruling on the admissibility of evidence, and we will reverse the ruling only when it was an abuse of discretion. Washington v. State, 784 N.E.2d 584, 587 (Ind. Ct. App. 2003). A trial court has abused its discretion if its ruling is clearly against the logic and effect of the facts and circumstances before the court. Id.

### I. United States Constitution

Henderson claims that the search of his vehicle and seizure of evidence discovered during that search violated his rights under the Fourth Amendment to the United States Constitution, which provides all citizens with the right "to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures . . . ." To protect this right, warrantless searches are generally prohibited. Vehorn v. State, 717 N.E.2d 869, 875 (Ind. 1999). There are, however, exceptions to the warrant requirement, and if a warrantless search is conducted, the State bears the burden of proving that such an exception existed at the time of the search. Id.

One such exception to the general requirement of a warrant is a search incident to arrest. The United States Supreme Court has held that police officers may search, incident to an arrest, the area immediately surrounding the location in which the arrestee was found. New York v. Belton, 453 U.S. 454, 460 (1981). Indeed, the Belton Court explicitly held that "when a policeman has made a lawful custodial arrest of the occupant

of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile.” Id. That the defendant may have been removed from the vehicle—or from the scene altogether—does not negate the officer’s authority to search the car’s interior. Jackson v. State, 597 N.E.2d 950, 957 (Ind. 1992).

Here, the arrest of Henderson for driving with a suspended license was undisputedly valid. Pursuant to the rule announced in Belton, therefore, Deputy Wass was authorized to search the passenger compartment of Henderson’s vehicle as a search incident to Henderson’s lawful arrest.<sup>3</sup> Thus, we do not find that the search of Henderson’s van or the seizure of the drug evidence therefrom violated Henderson’s federal constitutional rights.

## II. Indiana Constitution

Henderson also argues that the deputy’s search of his vehicle and seizure of the drug evidence violated Article 1, section 11 of the Indiana Constitution, which is virtually identical to the Fourth Amendment to the United States Constitution. We apply a different analysis under our State Constitution, however, focusing on the specific facts of each case and considering whether police conduct was reasonable in light of the totality of the circumstances. Trowbridge v. State, 717 N.E.2d 138, 144 (Ind. 1999). The totality of the circumstances “requires consideration of both the degree of intrusion into the subject’s ordinary activities and the basis upon which the officer selected the subject of

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<sup>3</sup> The fact that Deputy Wass did not rely on this rationale for the search is of no moment, inasmuch as we can sustain a trial court’s ruling on any basis supported by the record. Barker v. State, 695 N.E.2d 925, 930 (Ind. 1998) (holding that we will affirm the trial court’s decision to admit evidence if it is sustainable on any basis in the record).

the search or seizure.” Holder v. State, 847 N.E.2d 930, 940 (Ind. 2006). The determination of the reasonableness of a search or seizure often “turn[s] on a balance of: 1) the degree of concern, suspicion, or knowledge that a violation has occurred, 2) the degree of intrusion the method of the search or seizure imposes on the citizen's ordinary activities, and 3) the extent of law enforcement needs.” Litchfield v. State, 824 N.E.2d 356, 361 (Ind. 2005).

Here, it is undisputed that there was an initiating crime—driving with a suspended license—that led to Henderson’s arrest and triggered the need to search his vehicle, which was parked in the driveway of a residence that was not owned by Henderson. Deputy Wass was unable to locate the residence’s owner or occupants at the time of Henderson’s arrest. After arresting Henderson, the deputy intended to transport him to jail and have the van towed away, so a search of Henderson’s vehicle to protect and secure any valuables therein and to prepare it for impoundment by conducting an inventory was reasonable. In sum, the totality of these circumstances leads us to conclude that the search of Henderson’s vehicle was reasonable. Thus, we find that the search and subsequent seizure of the drug evidence did not violate the Indiana Constitution and that the trial court therefore properly admitted the evidence at trial.

The judgment of the trial court is affirmed.

DARDEN, J., and BRADFORD, J., concur.